

§ 1437.5

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(viii) Sea grass and sea oats.

[67 FR 12448, Mar. 19, 2002, as amended at 67 FR 62324, Oct. 7, 2002]

§ 1437.5 Coverage period.

(a) The coverage period is the time during which coverage is available against loss of production of the eligible crop as a result of natural disaster.

(b) The coverage period for annual crops, including annual forage crops, begins the later of 30 calendar days after the date the application for coverage is filed; or the date the crop is planted, not to exceed the final planting date; and ends on the earlier of the date harvest is complete; the normal harvest date of the crop in the area; the date the crop is abandoned; or the date the crop is destroyed.

(c) Except as otherwise specified in this part, the coverage period for biennial and perennial crops begins 30 calendar days after the application closing date; and ends as determined by CCC.

(d) Except as otherwise specified in this part, the coverage period for value loss crops, including ornamental nursery, aquaculture, Christmas tree crops, ginseng, and turfgrass sod; and other eligible crops, including floriculture and mushrooms begins 30 calendar days after the application closing date; and ends the last day of the crop year, as determined by CCC.

(e) The coverage period for honey begins 30 calendar days after the application closing date and ends the last day of the crop year, as determined by CCC.

(f) The coverage period for maple sap begins 30 calendar days after the application closing date and ends on the earlier of the date harvest is complete; or the normal harvest date.

(g) For biennial and perennial forage crops the coverage period begins the later of 30 calendar days after the application closing date; for first year seedlings, the date the crop was planted; or the date following the normal harvest date. The coverage ends on the normal harvest date of the subsequent year.

§ 1437.6 Application for coverage and service fee.

(a) With respect to each crop, commodity or acreage, producers must file

an application for coverage under this part no later than the application closing date.

(b) The service fee must be paid at the time of the application. The service fee is \$100 per crop per administrative county, up to \$300 per producer per administrative county, but not to exceed \$900 per producer.

(c) The service fee will be applied per administrative county by crop definition and planting period, as determined by CCC.

(d) Limited resource farmers may request that the service fee be waived and must request such a waiver prior to, or at the same time the application for coverage is filed. For this purpose, a "limited resource farmer" shall be given the meaning assigned by 7 CFR 457.8.

(e) For 2001 and 2002 crops for which the application closing date would normally have been established prior to March 19, 2002, or established within 60 calendar days after March 19, 2002, producers must within 30 calendar days after March 19, 2002:

(1) Submit a 2001 or 2002 crop application for coverage, as applicable, and pay the applicable service fee; and

(2) Certify the 2000 and 2001 crop year production for the crop, if applicable.

(f) For 2001 and 2002 crops which have suffered damage or loss, producers must, in addition to paragraph (e)(1) of this section, have complied with all requirements of this part prior to its revision on March 19, 2002, (and contained in the 7 CFR, parts 1200 to 1599, edition revised as of January 1, 2002) including having filed a timely:

(1) Report of acreage;

(2) Notice of loss; and

(3) Application for payment.

§ 1437.7 Records.

(a) Producers must maintain records of crop acreage, acreage yields, and production for the crop for which an application for coverage is filed in accordance with § 1437.5. For those crops or commodities for which it is impractical, as determined by CCC, to maintain crop acreage, yields or production, producers must maintain records, in addition to the available records required by this section, as may be required in subparts C, D and E, of this

part. Producers must retain records of the production and acreage yield for a minimum of 3 years for each crop for which an application for coverage is filed in accordance with §1437.6. Producers may be selected on a random or targeted basis and be required to provide records acceptable to CCC to support the certification provided. For each crop for which producers file an application for payment in accordance with §1437.10 that is harvested, producers must provide documentary evidence of production, acceptable to CCC, and the date harvest was completed. Such documentary evidence must be filed not later than the application closing date for the crop in the subsequent crop year. Records of a previous crop year's production for inclusion in the actual production history database used to calculate an approved yield for the current crop year must be certified by the producer no later than the application closing date for the crop in the current crop year. Production data provided after the application closing date in the current crop year for the crop may be included in the actual production history data base for the calculation of subsequent approved yield calculations if accompanied by acceptable records of production as determined by CCC. Records of production acceptable to CCC may include:

(1) Commercial receipts, settlement sheets, warehouse ledger sheets, or load summaries if the eligible crop was sold or otherwise disposed of through commercial channels provided the records are reliable or verifiable as determined by CCC; and

(2) Such documentary evidence such as contemporaneous measurements, truck scale tickets, and contemporaneous diaries, as is necessary in order to verify the information provided if the eligible crop has been fed to livestock, or otherwise disposed of other than through commercial channels, provided the records are reliable or verifiable as determined by CCC. If the crop will be disposed of through retail sales, such as: roadside stands, u-pick, etc. and the producer will not be able to certify acceptable records of production, the producer must request an appraisal of the unit acreage prior to harvest of the crop acreage.

(b) Producers must provide verifiable evidence, as determined by CCC, of:

(1) An interest in the commodity produced or control of the crop acreage on which the commodity was grown at the time of disaster; and

(2) The authority of the applicable individual to execute program documents.

(c) Reports of acreage planted or intended but prevented from being planted must be provided to CCC at the administrative FSA office for the acreage no later than the date specified by CCC for each crop and location. Reports of acreage filed beyond the date specified by CCC for the crop and location may, however, be considered timely filed if all the provisions of 7 CFR 718.103 are met. In the case of a crop-share arrangement, all producers will be bound by the acreage report filed by the landowner or operator unless the producer files a separate acreage report prior to the date specified by CCC for the crop and location. Reports of acreage planted or intended and prevented from being planted must include all of the following information:

(1) Number of acres of the eligible crop in the administrative county (for each planting in the event of multiple planting) in which the producer has a share;

(2) Zero acres planted when the producer's crop for which an application for coverage was filed, is not planted;

(3) The producer's share of the eligible crop at the time an application for coverage was filed;

(4) The FSA farm serial number;

(5) The identity of the crop, practices, intended uses, and for forage crops, the predominant species or type and variety of the vegetation;

(6) The identity of all producers sharing in the crop;

(7) The date the crop was planted or planting was completed, including the age of the perennial crops; and

(8) The acreage intended but prevented from being planted.

(d) Producers receiving a guaranteed payment for planted acreage, as opposed to receiving a payment only upon delivery of the production must provide documentation of any written or verbal contract or arrangement with the buyer to CCC. Net production, as

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determined by CCC, may be adjusted upward by the amount of production corresponding to the amount of the contract payment received.

(e) Producers must provide documentation of any salvage value received by or made available for the quantity of the crop or commodity that cannot be marketed or sold in any market, as determined by CCC and any value received by or made available for a secondary use of the crop or commodity.

(f) Producers requesting payment under this part must maintain records which substantiate gross revenue for the tax year preceding the crop year for which coverage is requested.

(g) Producers requesting a waiver of service fees as a limited resource producer must maintain records which substantiate annual gross income for the two tax years preceding the crop year for which coverage is requested.

§ 1437.8 Unit division.

Except as determined by CCC, a unit shall be all acreage of the eligible crop in the administrative county operated by the same producer(s). In cases where the owners of land are also producers, units shall be further divided based on ownership interest of the land.

§ 1437.9 Causes of loss.

(a) To be eligible for benefits under this part, crops must be damaged or prevented from being planted by drought, flood or other natural disasters and conditions related thereto. Not all named perils are eligible causes of loss for all crops. Eligible causes of loss include:

(1) Damaging weather occurring prior to or during harvest, including but not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof;

(2) Adverse natural occurrence occurring prior to or during harvest, such as earthquake, flood, or volcanic eruption; and

(3) A related condition, including but not limited to heat, insect infestation, or disease, which occurs as a result of an adverse natural occurrence or damaging weather occurring prior to or during harvest, that directly causes,

accelerates, or exacerbates the destruction or deterioration of an eligible crop, as determined by the Secretary.

(b) Ineligible causes of loss include but are not limited to:

(1) Factors or circumstances that are not the result of an eligible cause of loss affecting specific crop or commodity;

(2) The negligence or malfeasance of the producer;

(3) The failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed;

(4) Failure of the producer to follow good farming practices, as determined by CCC;

(5) Water contained or released by any governmental, public, or private dam or reservoir project, if an easement exists on the acreage affected for the containment or release of the water;

(6) Failure or breakdown of irrigation equipment or facilities; or

(7) Except for tree crops and perennials, inadequate irrigation resources at the beginning of the crop year;

(8) A loss of inventory (or yield as applicable) of aquaculture (including ornamental fish), floriculture or ornamental nursery stemming from drought or any failure to provide water, soil, or growing media to such crop for any reason;

(9) Any failure to provide a controlled environment or exercise good nursery practices where such controlled environment or practices are a condition of eligibility under this part.

§ 1437.10 Notice of loss and application for payment.

(a) At least one producer having a share in the unit must provide a notice of loss to CCC in the administrative FSA office for the unit, within:

(1) For prevented planting claims, 15 calendar days after the final planting date,

(2) For low yield claims and allowable value loss, the earlier of:

(i) 15 calendar days after the damaging weather or adverse natural occurrence, or date loss of the crop or commodity becomes apparent for low yield claims; and